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 1                IN THE UNITED STATES DISTRICT COURT

 2           FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

 3

 4   STUDENTS FOR FAIR ADMISSIONS, )   CASE NO: 1:14-CV-954

 5   INC.,                         )

 6              Plaintiff,         )

 7   -vs-                          )

 8   THE UNIVERSITY OF NORTH       )

 9   CAROLINA AT CHAPEL HILL, et   )

10   al,                          )

11              Defendants.        )

12   _____)

13

14              DEPOSITION OF RICHARD KAHLENBERG

15                   Washington, D.C.

16                   July 11th, 2018

17                      9:00 a.m.

18

19

20

21

22   REPORTED BY:  Alexandria Kaan
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 1   holistic admissions, and there are other universities

 2   that use a percentage plan. I'm not aware of any that

 3   have combined those two.

 4   Q. And the other schools you mention use class rank

 5   in their percentage plan. Correct?

 6   A. That's correct.

 7   Q. And then on page 76 you reference the -- you use

 8   the phrase: "The model I asked Arcidiacono to employ."

 9   You say, the fourth line from the bottom: "Unlike UNC

10   simulation however, the model I asked Arcidiacono to

11   employ does not rank admitted students solely by a

12   single factor." And focusing on the words, "the model I

13   asked Arcidiacono to employ", did that refer to a model

14   that he had already constructed and you asked him to

15   use, or did you direct him to create that model?

16   A. Well, this is a new model in the sense that

17   Professor Arcidiacono did not on his own do a 4.5

18   percent plan using the holistic admissions. But it

19   piggybacks off of Professor professor's model that looks

20   at what predicts admissions through the holistic process

21   at UNC.

22   Q. What, if anything, did you do to verify that the

1   model was working as intended?

2   MR. STRAWBRIDGE: Object to the form of the

3   question.

4   MR. FITZGERALD: Let me rephrase it.

5   BY MR. FITZGERALD:

6   Q. What did you do, if anything, to verify that the

7   simulation was working as intended?

8   MR. STRAWBRIDGE: Same objection.

9   A. We would have discussions about how the numbers

10   were being run. And I would write up the results of the

11   simulation, describing how the simulation was conducted.

12   And there was an opportunity for Professor Arcidiacono

13   to at that point notify me if there was any deviation

14   from what I had intended and what I was describing in my

15   report, and what he had actually done.

16   BY MR. FITZGERALD:

17   Q. So maybe I'll break it into three parts: If you

18   describe what he had done, you would write it up and

19   Professor Arcidiacono would see that and have an

20   opportunity to correct you if you mis-described what you

21   asked him to do. Correct?

22   A. That's correct.

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1   Q. And when you gave the results and you summarized

2 them -- and we'll go through that in a moment -- if he

3 thought you summarized the results incorrectly, he had

4 an opportunity to tell you your summary is off.

5 Correct?

6   A. That the description of what he had done was off.

7 Yes.

8   Q. And what about the description of the results,

9 what the outcomes of the simulation were. Did he review

10 your description of those?

11   A. Yes.

12   Q. What, if anything, did you do to ask him whether

13 or not there were any statistical issues in the

14 simulations he performed; whether or not the model, for

15 example, he used -- was overfit or not?

16   A. I did not ask him about whether the model was

17 overfit. Because Professor Arcidiacono is more highly

18 trained in those issues. I asked him to provide a

19 simulation that would be the strongest possible from an

20 econometric standpoint, and relied on him to ensure that

21 he was avoiding issues like overfit.

22   Q. And what do you mean by "strongest possible

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 1   model"?

 2   A.   That is to say that using his many years of

 3   experience in constructing models and conducting

 4   simulations, that this would be the -- that he would

 5   employ the best techniques available.

 6   Q.   So to follow up on that point of view, turn to

 7   page 78. You'll see the chart at the top of the page

 8   that's titled "UNC admitted classes of 2019, paren,

 9   in-state admissions, post-paren." How did that chart

10   get created?

11   A.   I created this chart.

12   Q.   So what information did Professor Arcidiacono

13   give you from the simulations that allowed you to create

14   this chart?

15   A.   Well, he would provide a spreadsheet of the

16   results of the simulation, and then I would create a

17   chart that would express the results in a user-friendly

18   fashion.

19   Q.   What did the chart that he gave you look like?

20   What kind of format was it?

21   A.   An Excel spreadsheet.

22   Q.   How long would it take you to take his Excel

 1   spreadsheet and turn it into something like the chart at

 2   the top of page 78?

 3   A. It wouldn't take long.

 4   Q. Just for my understanding, when you look at the

 5   first entry that says: "White, 69.2 percent", is that a

 6   number that would be lifted off his Excel chart or is

 7   that a number that you yourself would calculate?

 8   A. That would be from his Excel.

 9   Q. And how did you calculate SES disadvantage, which

10   is the sixth item down in the left column?

11   A. So I want to be careful here, because different

12   simulations had slightly different definitions. So I

13   want to make sure I'm accurately describing this. I

14   don't see a discussion in the report. But I can tell

15   you at a high level that the definition of socioeconomic

16   disadvantage in many of the simulations involved whether

17   a student was eligible for a fee waiver; whether she was

18   first-generation college; and whether she was eligible

19   for free-introduced-price lunch. That's the family --

20   at an even higher level I should say, socioeconomic

21   disadvantage here is the socioeconomic disadvantage of

22   the family, as opposed to the neighborhood or the high

1   school.

2   Q.   And do you know if the definition used for the

3   chart on page 78 for SES disadvantaged is reflected in

4   your report or in your work papers?

5   A.   It would surely be in the work papers.

6   Q.   And same question as to the definition of SES

7   advantaged?

8   A.   The SES advantaged is a figure that is calculated

9   by subtracting socioeconomic disadvantage from a hundred

10   percent. So it's any student who is not

11   socioeconomically disadvantaged.

12   Q.   Do you know how the SAT and the high school GPA

13   were calculated in the last column?

14   A.   Yes. So these are the mean scores of the

15   population being discussed here, in-state students.

16   Q.   And do you know if those metrics for SAT and GPA

17   are weighted in any way?

18   A.   I mean, the GPA is above 4, so it has a weighting

19   under UNC's system.

20   Q.   Do you know if the SAT score here is weighted in

21   any way?

22   A.   I'm not aware.

1   Q.   Is there anything we could check to find out

2 whether the SAT score is weighted, that would be in your

3 work papers?

4   A.   That would be presumably in the work papers. And

5 then the simulation 5 is one that we subsequently

6 corrected. But that information would be in the work

7 papers.

8   Q.   Who would have made the decision whether or not

9 to weight the SAT in the simulation?

10   A.   That would have been a decision that Professor

11 Arcidiacono would have made.

12   Q.   And the same thing as to GPA?

13   A.   Yes. High-level instructions would be to provide

14 the most accurate representation of the data. And given

15 his familiarity with the various ways in which the data

16 could be presented, I relied on his expertise to make a

17 decision on the most accurate way to present his data.

18   Q.   Once you made that high-level direction, the

19 decision whether to weight the SAT or GPA and how much

20 to weight it, would be entrusted to Professor

21 Arcidiacono?

22   A.   That's correct.

1   Q. Who created the backup to your reports for the

2 simulations?

3   MR. STRAWBRIDGE: Object to the form of the

4 question.

5   A. I did not. Do you mean the appendices, or the

6 work --

7 BY MR. FITZGERALD:

8   Q. The work papers.

9   A. I was not involved in that.

10   Q. Would that be Professor Arcidiacono who did that?

11   A. I assume so. Because I wasn't involved in

12 creating that, I don't know from personal knowledge who

13 exactly created those work papers.

14   Q. If it wasn't Professor Arcidiacono, who would it

15 have been?

16   A. He worked with a team of individuals whom he

17 supervised.

18   Q. So whoever it was, it wasn't you. It was either

19 Professor Arcidiacono or people working under him?

20   A. That's correct.

21   Q. And did you have any impute into the models he

22 constructed, Professor Arcidiacono, with respect to

1   admissions in the world of race within that process?

2   MR. STRAWBRIDGE: Object to the form of the

3   question.

4   A.   No.   I would ask him for things like: "I'd like

5   to have an understanding of how heavily different

6   factors are weighted in the process."   But he's the one

7   who designed all those models.

8   BY MR. FITZGERALD:

9   Q.   When it came to the choice, such as whether or

10   not to use a Logit model, L-O-G-I-T, or Probit model,

11   P-R-O-B-I-T -- was that his decision or your decision?

12   A.   His decision.

13   Q.   And do you know what Professor Arcidiacono does

14   within the models with when there's an SAT score

15   missing?

16   A.   At a very high level, I know that he imputes the

17   missing variables, as is common in studies like this.

18   Q.   Do you know what process he uses to impute the

19   missing variable?

20   A.   Again, at a very high level -- he would be able

21   to answer this much better than me.   It's my

22   understanding that He looks at the other variables that

1   are likely to predict SAT score -- or the missing

2   variable, let's say SAT --

3   Q. And do you personally know what risks there are

4   in using that method to impute a variable based upon

5   other variables?

6   A. I know there's discussion in his report about

7   different ways of imputing the missing variables. But I

8   wouldn't claim to have the expertise that he has in that

9   area.

10   Q. And the decision to do that, would that have been

11 Professor Arcidiacono's as opposed to yours?

12   A. To impute the missing variables?

13   Q. Yes.

14   A. Well my high-level instruction would be that the

15 efforts should be race-neutral. And then he would make

16 the decision on the best way to implement the model in a

17 fashion that's race-neutral and that addresses the

18 common problem in these types of simulations, that some

19 variables are missing.

20   Q. So once you gave him the high-level direction to

21 implement that model, would he come back to you and

22 discuss with you, "Here's how I intend to deal with

1 missing variables." Or would you basically have

2 delegated that choice to him?

3   A. Well, given his extensive experience in this

4 area, I would delegate that to him.

5   Q. Do you know how Professor Arcidiacono

6 standardizes SAT scores?

7   A. I don't.

8   Q. And there's a program, I'll spell the name out

9 for you and for the Court Reporter. But it's a

10 Kahlenberg, K-A-H-L-E-N-B-E-R-G underscore race-neutral

11 model dot DO program. Are you familiar with that?

12   A. I'm not.

13   Q. And do you know if that's the underlying model

14 that is used to run all those simulations off of?

15   A. The name is suggestive. But I don't -- I haven't

16 looked at that model.

17   Q. Do you know what it means to allow variables to

18 interact with each other from a statistical standpoint?

19   A. Yes.

20   Q. What does it mean?

21   A. When you're looking at a number of variables in

22 an equation, one might want to know, for example, how an

1   SES preference applies differently to different races.

2   And so the interaction between socioeconomic status and

3   race would be an example of looking at that question.

4   Q. So from a statistical or econometric point of

5   view, do you know what the risks and benefits are of

6   allowing different variables to interact with each

7   other?

8   MR. STRAWBRIDGE: Object to the form of the

9   question.

10   A. Again, I asked Professor Arcidiacono to provide

11 his best judgment on the best way to conduct a

12 race-neutral alternative. And given his extensive

13 experience, that's something I deferred to him on.

14 BY MR. FITZGERALD:

15   Q. And the model, as run in your January report, was

16 run on only UNC applicants. Correct?

17   A. That's correct. In all of those, right.

18   Q. And it was used to calculate status quo results.

19 Correct?

20   A. Yes.

21   Q. Whose decision was it to run the model only

22 against applicants in January?

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 1       A.   That was my decision.

 2       Q.   Why did you decide to do it that way?

 3       A.   Well, a number of reasons:  The biggest reason is

 4   that when you focus on applicants you have the actual

 5   rating system that UNC employs.  And in the past there's

 6   been a criticism of race-neutral simulations because

 7   individuals will say, "Well, this doesn't look at the

 8   letters of recommendation and the interviews and the

 9   essay, and all the various factors that go into an

10   admissions process that would rely on SAT's and GPA's

11   and all the objective factors."  And so it was my belief

12   that a race-neutral alternative would be more powerful

13   if it could use applicant data, and have therefore

14   available to it the actual ratings that UNC had

15   employed.  It would be the closest thing to holistic

16   admissions.  So that was one advantage.

17           A second advantage has to do with the breadth of

18   the simulation.  So in my opening report, Professor

19   Arcidiacono and I were able to project the entire UNC

20   admitted class, a hundred percent of students; whereas

21   if you rely on -- as Professor Hawksby did on the RNC

22   data -- you're limited to about two thirds of the class
```

 1   details about the most accurate way to do that, I would

 2   leave to him.

 3   Q. Do you know if he compared applicants across

 4   years? In other words, did he have applicants in one

 5   admission cycle compete only against applicants in that

 6   same cycle? Or did he combine years and have applicants

 7   as a whole -- as a pool -- compete against the other

 8   applicants?

 9   A. I know the results are presented in terms of

10   annual results. But in terms of -- you're talking about

11   the composite number?

12   Q. Yes. His methodology. Did he have 2016 and 2017

13   applicants treated similarly? Or did he treat 2016

14   applicants separate in a pool for just that year, and

15   then treat 2017 applicants in a pool for just that year?

16   A. Again, I asked him to present the data in the

17   most accurate way possible, and then left the judgment

18   to him for the best way to do that.

19   Q. As you sit here now, do you know which way he did

20   it?

21   A. I well, I know when we looked at the -- if I'm

22   understanding your question right -- when we look at the

1 results, they're broken down by year and then there's a

2 composite at the very end, a total that would combine

3 those --

4   Q. You're pointing to, for the record?

5   A. I'm not sure I'm on the right page here.

6   Q. We were on page 65. I didn't know you were

7 pointing to a chart.

8   A. Yes, I was. I just flipped very quickly, so I

9 want to make sure I have the right one. Appendix C. I

10 remember there was a page where he puts it all together,

11 82/18 split. So first he's presenting in state and the

12 out of state -- so here it is, table C2.

13   Q. Just for the record, there's no page number, but

14 I think table C2 is unique. Table C2 is 2 pages. So

15 table C2 and table C2 continued. Do I have that right,

16 from Exhibit 1?

17   A. That's correct.

18   Q. Your understanding what this reflects here is a

19 year-by-year breakdown of the status quo and the admits

20 on the simulation?

21   A. That's correct.

22   Q. Who constructed table C2?

 1   A.   Professor Arcidiacono.

 2   Q.   Did you edit it in any way?

 3   A.   It's possible. In our process, he and his team

 4 would provide the results, and I would suggest to him,

 5 "Well, I think it would be clearer if we did it this

 6 way." So it's possible I edited this.

 7   Q.   As you sit here now, do you recall whether you

 8 edited this table or not?

 9   A.   I don't recall.

10   Q.   As you sit here now, do you know if in running

11 this simulation Professor Arcidiacono had the applicants

12 in 2016 sort of compete only against the other

13 applicants in 2016, or against the other applicants

14 across 2016 and 2017? If you know.

15   MR. STRAWBRIDGE: Object to the form of the

16 question.

17   A.   So I would assume that they were completing

18 within each class.

19 BY MR. FITZGERALD:

20   Q.   And in your January simulations -- in appendix C,

21 are all the tables from Professor Arcidiacono?

22   A.   Yes.

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1   Q.   In your January report, did you identify high

2   schools to determine the number of 12th-grade students

3   within high school?

4   A.   I'm trying to remember whether we did a school.

5   I remember we were seeking to get the level of school --

6   diversity by number of schools; that was one of the

7   things I asked for.

8   Q.   During that process, was a variable used called,

9   quote -- I'll spell it -- S-C-H-L-C-O-D-E, close quote.

10   Are you familiar with that variable?

11   A.   At a high level it's my understanding there was a

12   -- yes, that was one of the issues that came up.

13   Q.   Was it a 3-digit code, as far as you recall?

14   A.   I was not involved in looking at the numbers --

15   digits.

16   Q.   Was that number involved to identify the SES

17   school variable? If you know.

18   A.   So again, my understanding is at a high level,

19   that there was an error made in the way that schools

20   were coded -- or schools were analyzed in the original

21   simulations that we had been -- that Professor

22   Arcidiacono subsequently fixed --

1   Q. So before we get to the error and the fixing, did

2 you understand that the purpose of the school code

3 variable was to identify schools where preference would

4 be given to applicants from that school because of the

5 SES characteristics of the school?

6   A. It depended on the simulation. It's my

7 understanding the school code would be implicated in the

8 socioeconomic preference issue, to look at the

9 socioeconomic status of the school, but also indicated

10 in the percentage-plan approach which relies on being

11 the top students within a particular school.

12   Q. Who created this SES school variable?

13   A. I gave a high-level instruction to provide a

14 preference to students who attended socioeconomically

15 disadvantaged schools, given the extensive research

16 suggesting that the obstacle that students face when

17 they enter a high-poverty school, or lower-income

18 school. And this was one of those instances where there

19 was a back and forth between Professor Arcidiacono and I

20 about the data that are available in the case and how we

21 could best define socioeconomically disadvantaged

22 schools.

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1   Q. Do you remember what the back and forth was?

2 When you say "back and forth", was it a disagreement

3 between the two of you? Just a --

4   A. No. Just an iterative conversation about how to

5 do this most accurately.

6   Q. And who decided how to construct that variable in

7 the end?

8   A. I would decide in the end. I mean, Professor

9 Arcidiacono would give me options, and then I would make

10 a decision on what made most sense.

11   Q. And what made most sense in this case?

12   A. In this case, I think we ended up saying it would

13 be students who were from the bottom third

14 socioeconomically -- I mean, the school was in the

15 bottom third socioeconomically.

16   Q. Do tables C 1, C2, and C3 in your January report

17 reflect the use of that SES school variable?

18   A. Well, it would depend on the simulation. So

19 Simulation 1 doesn't look at the school's socioeconomic

20 status. Simulation 2 doesn't either. Simulation 3 does

21 not implicate schools. It's when you get to simulations

22 4 and 5 where the school issue comes up.

1   Q. And did you understand that school code variable

2 to identify a unique high school for each member?

3   A. So I wasn't involved in that question. I just

4 provided instruction about the school; what I was

5 looking for, and then Professor Arcidiacono was the one

6 who then went into the data and looked at the school

7 variables.

8   Q. As you sit here now, do you know if now your

9 models, including any corrections you made, happen that

10 the school variable is unique to one school?

11   A. I think I better -- let me say again: At a high

12 level, Professor Arcidiacono would be in a better

13 position to answer that question. What I sought to have

14 him do was to correct the error that Professor Hawksby

15 had identified in our initial use of school codes, and

16 have it reflect what I was seeking, which was that each

17 school would have a unique code.

18   Q. So what happened when Professor Hawksby

19 identified the error? What did you do to figure out

20 whether her criticism was correct or not?

21   A. Professor Arcidiacono and I had a conversation

22 about the question of whether the school coding was done

1   accurately. And he examined the issue and found this

2   was an instance where Professor Hawksby was correct. So

3   I instructed him to rerun the numbers with the correct

4   definition of schools.

5   Q. Did Professor Arcidiacono walk you through how

6   the mistake was made, or did you just trust his judgment

7   when he agreed with Professor Hawksby?

8   A. He's a leading economist, and this is not my

9   particular area of expertise, sorting through code. So

10   I relied on his expertise.

11   Q. On your January report on pages 33 to 34, you

12   discuss the Logit estimates of admission calculated by

13   Professor Arcidiacono as "mild". Are you on page 32?

14   Counsel as well?

15   What do you understand that the Logit estimate of

16   admission tells you?

17   A. It tells you the increased -- or decreased, in

18   the case of a negative -- chance of admissions based on

19   that one particular variable.

20   Q. And do you intend to opine at trial about the

21   significance of a Logit estimate and what it means?

22   A. Well, in explaining the meaning in my report, I

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 1   would feel comfortable at a high level of discussing

 2   what a table like this means.

 3      Q.  And when you say "what a table like this means",

 4   what are you referring to?

 5      A.  I'm sorry.  On page 33, you pointed to in-state

 6   applicants, the Logit application estimate.

 7      Q.  Oh, you're on 33.  Okay, got it.  I was wondering

 8   why your page and mine look different; they were

 9   different pages.  What is your understanding this table

10   tells you, based on the Logit estimates?

11      A.  Well, that all other things being equal, an

12   African American student's odds of admissions are 4.687

13   times the odds of a non-African-American -- or white

14   student in this case.  And a legacy student has a 4.35

15   times odds of admissions of a non-legacy student.

16      Q.  Have you ever testified before about the

17   significance of a Logit estimate in any other

18   proceeding?

19      A.  I have not.

20      Q.  Do you know how Professor Arcidiacono's models

21   that were used for your simulations, compare to the

22   model used by Carnevalie in the study that you cite --
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1 on page 12 of the January report, if you need that.

2   MR. STRAWBRIDGE: Object to the form of the

3 question.

4   A. I mean, there would be lots of differences

5 between the models. Professor Carnevalie, for example,

6 didn't have access to the holistic ratings that

7 Professor Arcidiacono was able to employ in his model.

8 BY MR. FITZGERALD:

9   Q. Do you know of other differences between the two

10 models?

11   A. Well, there may be other differences. I think

12 that's probably the most significant one.

13   Q. And turning to page 77, same report, footnote

14 292.

15   A. Yes.

16   Q. Do you understand that Professor Arcidiacono used

17 all the possible variables from UNC in his models?

18   MR. STRAWBRIDGE: Object to the form of the

19 question.

20   A. I just want to read this footnote to make sure I

21 follow the question.

22   I'm sorry. I lost your question.

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 1      Q.  The footnote may be distracting from the

 2  question, so pretend I didn't put that shiny object in

 3  front of your eyes.  Do you understand whether Professor

 4  Arcidiacono used all of the variables provided by UNC in

 5  constructing his model?

 6             MR. STRAWBRIDGE:  Same objection.

 7      A.  It's my understanding that Professor Arcidiacono

 8  was trying to replicate a holistic admissions that would

 9  look at the different types of ratings that UNC used in

10  its system.  And then would turn off various preferences

11  that I asked him to erase; like legacy and the like.

12  BY MR. FITZGERALD:

13      Q.  Do you know if Professor Arcidiacono omitted any

14  of the UNC variables in his model, setting aside

15  whatever you asked him to turn off?

16      A.  All I know is that I asked Professor Arcidiacono

17  to replicate as closely as possible the current

18  holistic-admissions process in the race-neutral

19  simulations.

20      Q.  You don't know whether he included all variables

21  that Carolina had or not.  Is that fair to say?

22      A.  All I know is the instructions I gave to him.  I
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1   don't know about the specifics about his decisions to

2   omit certain variables that he thought would be

3   inappropriate to include in the model.

4   Q. And you had no discussions with him as to whether

5   or not any variables were ones that would be

6   inappropriate to include in the model. Correct?

7   MR. STRAWBRIDGE: Object to the form of the

8   question.

9   A. No. I mean, my instructions were: "Try to

10 replicate as best as possible the holistic-admissions

11 process with only these variations -- legacy, that kind

12 of thing."

13   Q. And you had no further discussions with him, as

14 to any decisions he made to include or omit variables in

15 his judgment?

16   A. That's correct.

17   Q. In your April report -- so we're going to switch

18 reports to Exhibit 2. Before I cite you something, I'll

19 make sure it's a productive exercise.

20   MR. STRAWBRIDGE: I won't hold you to that,

21 Counsel.

22 BY MR. FITZGERALD:

1   Q. And in the context, what do you understand "rare"

2   to mean?

3   A. Well, Professor Hawksby's report, in her footnote

4   she talks about the chances of -- kind of what Professor

5   Arcidiacono explained to me was kind of the more

6   accurate way of describing "increased chances". And yet

7   in her text she used this 21.2 percent chance of

8   admission. So that was the initial flag for the idea

9   there was a concern here. And then in the next sentence

10 I go on to say: "The immediate admission probability

11 for a socioeconomically disadvantaged student or for a

12 family and neighborhood bump is just 2.7 percent."

13 Which gives you -- that's the median -- and so suggests

14 the 21.2 percent chance is not typical.

15   Q. And is the information that Professor Arcidiacono

16 provided to you reflected anywhere in your work papers

17 or appendix?

18   A. I assume it's in the work papers, yes.

19   Q. You assume. Do you know, or do you just assume?

20   A. I haven't seen the work papers, so I don't know.

21   Q. Who prepared the work papers?

22   A. Professor Arcidiacono.

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 1      Q.  Have you ever seen them?

 2      A.  I've seen the results of various simulations, but

 3  I haven't seen the work -- all the coding that's

 4  provided, I haven't gotten to that.

 5      Q.  So you haven't seen any of the work papers that

 6  underlie the analysis in your report?

 7              MR. STRAWBRIDGE:  Object to the form of the

 8  question.

 9      A.  So we had a division of duties in our process,

10  and I would provide instructions for how I would like

11  the simulation to be conducted.  Professor Arcidiacono

12  has far more expertise than I do on how to run models,

13  and so I didn't think it was -- it didn't make sense for

14  me to get into those -- to take close examination of the

15  work papers.

16      (Whereupon the proceedings go off the record.)

17  BY MR. FITZGERALD:

18      Q.  So Mr. Kahlenberg, you used non-applicant data in

19  your June reply report.  Correct?

20      A.  In some of the simulations, yes.

21      Q.  And you'd agree with me that a large number of

22  non-applicants are eligible for socioeconomic
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1   doesn't go into -- so at a high level, it was the top

2   students in the NCERDC data, by the metrics of SAT and

3   GPA -- I want to get the precise description that I --

4   Q.   If you look at page 59, at the end of the first

5   -- the carry-over paragraph, it says: "I asked

6   Arcidiacono in Simulation 8, to fill vacant seats with

7   the top remaining students --

8   A.   Oh, yes, akin to an academic index, yes --

9   Q.   -- and focused on academic factors such as grades

10   and test scores." And then there's footnote 220.

11   A.   Yes.

12   Q.   Do you know, did Arcidiacono use his own academic

13   index, if you know?

14   A.   So the reason that we use the word "akin" to the

15   academic index is that we weren't using the academic

16   index per se. The academic index, it was in essence the

17   academic index but not the academic index per se. So it

18   was turning off all these various preferences in model

19   4, which in effect leaves over SAT and GPA as what

20   remains when you take out all these other factors.

21   Q.   How is that different from Arcidiacono's academic

22   index?

 1   A. My sense is that, given that this is using model

 2   4 and then turning off the other preferences, I believe

 3   that it could include the academic rating, looking at

 4   the program rating. But I'd have to look at the model

 5   4; I don't know if you have that report, Arcidiacono's

 6   report --

 7   Q. Let me ask you this question: Who decided to do

 8   it this way?

 9   A. I deferred that question to Professor

10   Arcidiacono. That is to say, I wanted to admit -- the

11   high-level instruction was, I wanted to admit the top

12   students apart from -- with all these other preferences

13   turned off. And the way it was explained to me is this

14   is akin to the academic index but not the academic

15   index.

16   Q. Do you recall if there was any discussion about

17   the advantages and disadvantages of doing it this way

18   versus using the academic index?

19   A. I don't, no.

20   Q. And then Simulation 9, how did you complete the

21   class for Simulation 9? It's in page 62 of your reply

22   report.